

The Iowa Public Information Board

In re the Matter of: Kelly Shaw, Steve Armstrong, and Stephanie Erickson, Complainants And Concerning: Indianola City Council, Respondent	Case Numbers: 21FC:0040, 21FC:0041, and 21FC:0042 Consolidate and Dismissal Order
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COMES NOW, Margaret E. Johnson, Executive Director for the Iowa Public Information Board (IPIB), and enters this Consolidate and Dismissal Order:

On May 18, 2021, Kelly Shaw, the former Mayor of Indianola, filed formal complaint 21FC:0040, alleging that the Indianola City Council (Council) violated Iowa Code chapter 21.

On May 19, 2021, Steve Armstrong, a former candidate for the Indianola City Council, filed formal complaint 21FC:0041, also alleging that the Council violated Iowa Code chapter 21.

On May 19, 2021, Stephanie Erickson, a former candidate for city council and for Mayor of Indianola, filed formal complaint 21FC:0042, again alleging that the Council violated Iowa Code chapter 21.

All three complainants alleged that the Council violated Iowa Code chapter 21 by holding a meeting after a regularly scheduled meeting on May 17, 2021, without proper posting of a notice and agenda for this meeting. Because the allegations in each complaint are identical, it is appropriate to consolidate these complaints.

The complainants alleged that four of the six council members met with the city manager after the May 17, 2021, meeting at the home of a council member. The complainants supported the allegations by providing photos of vehicles parked outside the home of a council member on May 17, 2021.¹

On May 19, 2021, the city attorney responded to the complaints. He indicated that the gathering was purely social. There are six council members, making the presence of four members a majority.²

¹ The complainants alleged that four of the six council members were present on May 17, 2021. The photos provided indicate three vehicles belonging to council members and one belonging to the city manager at the home of another council member. The city attorney confirmed that four council members were present, but added that the gathering was purely social.

² Allegations were also made concerning an incident in January 2020 when four council members traveled by vehicle to a properly posted meeting with the City's engineering firm. The IPIB does not have jurisdiction over this allegation due to the 60-day filing deadline required by Iowa Code section 23.7(1). In addition, allegations were raised that similar incidents occurred on April 19, 2021, and May 3, 2021, involving only three of the six councilmembers.

Iowa Code section 21.2(2) defines a meeting as follows:

2. "Meeting" means a gathering in person or by electronic means, formal or informal, of a majority of the members of a governmental body where there is deliberation or action upon any matter within the scope of the governmental body's policy-making duties. Meetings shall not include a gathering of members of a governmental body for purely ministerial or social purposes when there is no discussion of policy or no intent to avoid the purposes of this chapter.

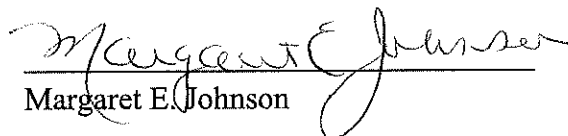
The complainants have not provided sufficient information indicating that the council members present deliberated or took action upon official government business. The city attorney provided signed and notarized affidavits from the four council members present, plus the city manager, indicating that the gathering was purely social.³

Iowa Code section 23.8 requires that a complaint be within the IPIB's jurisdiction, appear legally sufficient, and have merit before the IPIB accepts a complaint. This complaint does not meet those requirements.

IT IS SO ORDERED: Formal complaints 21FC:0040, 21FC:0041, and 21FC:0042 are consolidated and dismissed as legally insufficient pursuant to Iowa Code section 23.8(2) and Iowa Administrative Rule 497-2.1(2)(b).

Pursuant to Iowa Administrative Rule 497-2.1(3), the IPIB may "delegate acceptance or dismissal of a complaint to the executive director, subject to review by the board." The IPIB will review this Order on June 17, 2021. Pursuant to IPIB rule 497-2.1(4), the parties will be notified in writing of its decision.

By the IPIB Executive Director


Margaret E. Johnson

CERTIFICATE OF MAILING

This document was sent by electronic mail on the 17th day of June, 2021, to:

Kelly Shaw
Steve Armstrong
Stephanie Erickson
Doug Fulton, legal counsel for Indianola City Council

³ The ability to freely associate with others has been interpreted as a fundamental right protected by the First Amendment of the United States Constitution. (See an analysis by the Free Speech Center, Middle Tennessee State University at <https://mtsu.edu/first-amendment/article/1594/freedom-of-association>.)